

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 14-CR-10143-WGY
v.)	
)	
JOSH A. WAIRI,)	
Defendant.)	

JOINT SUBMISSION OF THE PARTIES UNDER LOCAL RULE 116.5(c)

Pursuant to Local Rule 116.5(b), the parties jointly file this status report and state as follows:

(1) Whether the defendant requests that the case be scheduled for a Rule 11 hearing

No.

(2)(A)-(E) Whether, alternatively, parties move for a pretrial conference, and if so, address the following:

(A),(B),(C) Status of Automatic Discovery and Timing of Additional Discovery

A final pretrial conference is scheduled for March 23, 2015. Automatic discovery has previously been provided to counsel for the defendant. Additionally, a superseding indictment was returned on March 5, 2015 and the discovery previously provided encompasses the charges in the superseding indictment.¹ Further, pursuant to L.R. 116.2 and Fed. R. Crim. P. 26.2 the government has also provided its “21-day disclosure letter” and materials. Any newly discovered evidence shall be disclosed pursuant to the Local Rules. Counsel for the defendant has not filed any discovery requests and has not provided any discovery. No pretrial motions or pleadings have been filed pursuant to Fed.

¹ The superseding indictment charges the defendant with one count of Transportation of Child Pornography in violation of 18 USC §2252A(a)(1), three counts of Production and Attempted Production of Child Pornography in violation of 18 USC §2251(a) and (e), and one count of Possession of Child Pornography in violation of 18 USC §2252A(a)(5)(B).

R. Crim. P 12(b). The parties do not request relief from the otherwise applicable timing requirements imposed by L.R. 116.3.

(D) Periods of Excludable Delay

The parties have conferred on the periods of excludable delay from all Speedy Trial Act calculations and jointly submit that as of the tentative trial date of April 6, 2014, no non-excludable days had occurred leaving 70 days to commence trial. Per the Court's Scheduling Order dated September 4, 2014, "the time between May 15, 2014 (date of arraignment on original indictment) and April 6, 2015 (trial date) is excluded with the agreement of the defendant in the interest of justice as stated on the record." (see docket entry #27).

(E) Whether Trial is Anticipated; Length of Trial

A trial is expected to last approximately one to two weeks. Additionally, the parties are in the process of discussing stipulations that may be entered into in this case.

(3) Expert Discovery Under Fed.R.Crim.P. 16(a)(1)(E)

The forensic evidence has been available for review by defense counsel by appointment with the U.S. Attorney's Office and counsel for the defendant has/have examined the forensic evidence at the U.S. Attorney's Office on two separate occasions. Should this case proceed to trial, the government intends to call an expert(s) witness(es) from United States Postal Inspector's Services ("USPIS") and/or Massachusetts State Police ("MSP") to testify about the forensic examination of evidence conducted in this case as well as the results. The government has provided expert disclosures for said witnesses in its "21 day disclosure letter". Defense counsel has indicated it does not intend to call an

expert witness at trial. Should that change, the defendant will provide such discovery seven days prior to trial.

J.W. Carney, Jr., Esq.

Respectfully submitted,
CARMEN M. ORTIZ
United States Attorney

s/ J.W. Carney, Esq.
J.W. Carney, Jr., Esq.
Benjamin P. Urbelis, Esq.

By: s/ Suzanne Sullivan Jacobus
Suzanne Sullivan Jacobus
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Assistant U.S. Attorneys

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

s/ Suzanne Sullivan Jacobus
Suzanne Sullivan Jacobus
Assistant U.S. Attorney